IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

CRP.No. 61 of 2007()

OPELE.255/2002 of ADDL.DISTRICT COURT-I,MAVELIKKARA
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REVN. PETITIONER:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENT:

LATHA, KATTICHALIL,
KUMARAPURAM, (POTHAPALLIL VADAKKUM MURI)
KARTHIKAPPALLY.

BY ADV. SRI.RASHEED C.NOORANAD

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.61 of 2007

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Dated this the 4th day of December, 2007.

ORDER

This revision petition is preferred against the order of the Additional District Judge, Mavelikkara in O.P.(Ele) No.255 of 2002. The court has passed an award for Rs.55,363/- with 6% interest. It is against that decision, the revision petitioner has preferred this revision. A perusal of the award would reveal that the court below has relied upon the decision of a Full Bench of this Court reported in **Kumba Amma** v. **K.S.E.B.** - 2000 (1) K.L.T.542 and has fixed 5% annuity. Learned counsel for the writ petitioner submitted that by a decision of the Apex Court in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T.1 there is a direction that each case has to be considered depending upon the facts and circumstances of the case. He has also referred to the following passage in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent

> of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

In the light of the above decision, the matter requires reconsideration for the reason that additional documentary as well as oral evidence is necessary for a proper disposal of the matter.

2. Therefore, the order under challenge is set aside and the matter is remitted back to the court below for deciding the matter afresh after affording equal opportunities to both sides and produce and adduce oral as well as documentary evidence in support of their respective contentions and the court is directed to dispose of the matter in the light of the principles laid down in

K.S.E.B. v. **Livisha** - 2007(3) K.L.T.1. Parties are directed to appear before the court below on 15.1.2008.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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